

11.105

11.105 Items peculiar to one manufacturer.

Agency requirements shall not be written so as to require a particular brand name, product, or a feature of a product, peculiar to one manufacturer, thereby precluding consideration of a product manufactured by another company, unless—

(a)(1) The particular brand name, product, or feature is essential to the Government's requirements, and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the agency's minimum needs;

(2)(i) The authority to contract without providing for full and open competition is supported by the required justifications and approvals (see 6.302-1); or

(ii) The basis for not providing for maximum practicable competition is documented in the file (see 13.106-1(b)) or justified (see 13.501) when the acquisition is awarded using simplified acquisition procedures.

(3) The documentation or justification is posted for acquisitions over \$25,000. (See 5.102(a)(6).)

(b) For multiple award schedule orders, see 8.405-6.

[60 FR 48238, Sept. 18, 1995, as amended at 61 FR 39192, July 26, 1996; 62 FR 263, Jan. 2, 1997; 62 FR 10710, Mar. 10, 1997. Redesignated and amended at 64 FR 32742, June 17, 1999; 71 FR 57360, Sept. 28, 2006]

11.106 Purchase descriptions for service contracts.

In drafting purchase descriptions for service contracts, agency requiring activities shall ensure that inherently governmental functions (see subpart 7.5) are not assigned to a contractor. These purchase descriptions shall

(a) Reserve final determination for Government officials;

(b) Require proper identification of contractor personnel who attend meetings, answer Government telephones, or work in situations where their actions could be construed as acts of Government officials unless, in the judgment of the agency, no harm can come from failing to identify themselves; and

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(c) Require suitable marking of all documents or reports produced by contractors.

[61 FR 2629, Jan. 26, 1996. Redesignated at 64 FR 32742, June 17, 1999]

11.107 Solicitation provision.

(a) Insert the provision at 52.211-6, Brand Name or Equal, when brand name or equal purchase descriptions are included in a solicitation.

(b) Insert the provision at 52.211-7, Alternatives to Government-Unique Standards, in solicitations that use Government-unique standards when the agency uses the transaction-based reporting method to report its use of voluntary consensus standards to the National Institute of Standards and Technology (see OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities"). Use of the provision is optional for agencies that report their use of voluntary consensus standards to the National Institute of Standards and Technology using the categorical reporting method. Agencies that manage their specifications on a contract-by-contract basis use the transaction-based method of reporting. Agencies that manage their specifications centrally use the categorical method of reporting. Agency regulations regarding specification management describe which method is used.

[64 FR 51835, Sept. 24, 1999]

Subpart 11.2—Using and Maintaining Requirements Documents

11.201 Identification and availability of specifications.

(a) Solicitations citing requirements documents listed in the General Services Administration (GSA) Index of Federal Specifications, Standards and Commercial Item Descriptions, the DoD Acquisition Streamlining and Standardization Information System (ASSIST), or other agency index shall identify each document's approval date and the dates of any applicable amendments and revisions. Do not use general identification references, such as "the issue in effect on the date of the solicitation." Contracting offices will